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Today the Port of Portland and Northwest Natural submitted their respective comments on EPA's Proposed Plan for the Portland Harbor Superfund Site. The conclusion of the public comment period on EPA's Proposed Plan marks an important milestone in this process, and also presents an opportunity for EPA to adjust its Proposed Plan to better reflect the data, science, and uncertainties at Portland Harbor.

Although our comprehensive comments are submitted separately, the executive leadership at the Port and NW Natural want to share our hopes for an approach at Portland Harbor that is implementable, protective, cost-effective, and facilitates settlements among parties so we can get to the milestone that truly matters: a cleaner, healthier river.

Since before EPA's listing of Portland Harbor on the National Priorities List in 2000, the Port and NW Natural have stood as leaders in the process. Each of us acknowledged early on that we had responsibility for some of the contamination in Portland Harbor, conducted early actions with EPA, and signed the Remedial Investigation (RI)/Feasibility Study (FS) Administrative Order on Consent. Under the Order, with other members of the Lower Willamette Group, we worked cooperatively with EPA to collect thousands of samples and produce tens of thousands of pages of technical reports. We entered into source control agreements with the Oregon Department of Environmental Quality and conducted cleanup on the upland areas. We helped to convene and have participated in an allocation process with many of the nearly 140 Potentially Responsible Parties (PRPs) identified by EPA. And, together and individually, we have participated intensively at the project, senior manager and executive levels in regular coordination and meetings with EPA.

We do not think EPA should delay its Record of Decision (ROD) until more data can be gathered and existing documents rewritten. EPA has the information it needs to start cleaning up the Portland Harbor. The purposes of this letter are to reiterate our strong desire to begin cleanup of the Harbor in the very near future, and to propose a path we think will lead to that result.

We believe EPA can finalize a ROD within the next few months if it makes the following, targeted four adjustments in its ROD:

**1. Focus on Reducing Identified Risks and Consistency with Risk Assessments**

First, the work required by the ROD must be clearly linked to reduction of the risks identified in EPA's approved Baseline Human Health and Ecological Risk Assessments (the Risk Assessments). Deviations from the Risk Assessments threaten inconsistencies between EPA's remedy and the underlying analyses, and create cost and other barriers to settlement that could delay action in areas of identified risk by many years, but achieve no meaningful reduction in risk.

By contrast, connection of the remedy to EPA's approved Risk Assessments will expedite allocation of costs among PRPs, pave the way for settlements among PRPs and with EPA, and lead to prioritized, near-term cleanup of the areas where contaminated sediments do pose risk to human health and/or the environment.

**2. Break Site Up Into Prioritized Sub-Areas for Cleanup and Settlement**

Second, the Site must be broken into some type of discrete sub-areas to allow for streamlined implementation. The 10-mile stretch of river that comprises the Superfund Site is not uniform throughout. In fact, the data developed during the Remedial Investigation clearly demonstrate that the elevated contamination is largely localized and near shore, in discrete areas of sediment that are separated by larger areas of lower levels of contamination. Each of these discrete areas of contamination is marked by unique attributes, such as contaminant(s) of concern, past, current and future land uses, river dynamics, and percentage of orphan share. Many of these discrete areas also have distinct parties responsible for the contamination in these areas. These include the Terminal 4, which the Port owns, and sediments adjacent to the former Gasco facility, for which NW Natural acknowledges responsibility.

Dividing the site into manageable sub-areas allows EPA to: (1) prioritize work in areas of the Site where cleanup will achieve the most significant risk reduction; and (2) allow parties to proceed with design in areas where there is acknowledged responsibility and not be held up by other areas of the site that may need stronger tools from EPA to move parties toward performance. To facilitate settlement, parties will need the certainty of EPA's settlement tools like consent decrees, tied to each discrete subunit.

### **3. Provide Sufficient Flexibility to Refine Remedies Post-ROD**

Third, EPA's Proposed Plan oversimplifies a complex and dynamic river system. Each of the sub-areas should incorporate common principles, but each demands a site-specific technical approach that is tailored to the characteristics and current and future operational needs for each area. The ROD must allow technology assignments for each sub-area to be refined post-ROD based on current, site-specific information about that area.

A successful ROD at a large, complex sediment site like Portland Harbor must incorporate as much flexibility as possible to allow for these refinements to occur. EPA guidance advocates the use of iterative, risk-based approaches to cleanup that retain flexibility to reevaluate site assumptions as new information is gathered. The Proposed Plan recognizes that more current data is needed to accurately evaluate contaminant levels and other conditions in many parts of the Site. If the ROD makes it clear that adjustments may be made during the design phase based on new data, it will be much easier to achieve the settlements needed to ensure timely cleanup of the sediments posing health and environmental risk.

### **4. Incorporate Adaptive Management Principles to Reach Equally Protective, Cost-Effective Remedial Solutions**

Finally, the ROD should adopt adaptive management principles that acknowledge the significant uncertainties at the site, by focusing on cleanup of areas of greatest risk identified by the Risk Assessments. A focus on risk reduction instead of mass removal will move cleanup forward and EPA should express openness to consideration of equally protective, more cost-effective remedies that incorporate adaptive management in EPA's approach. An important feature of adaptive management is that it also allows for EPA to use monitoring information from those efforts to determine if additional remedy is required to achieve cleanup objectives.

In closing, as a public entity and a publicly regulated utility, we each bear fiduciary responsibilities to the public. We simply cannot support a more costly, inefficient cleanup when an alternative approach will be equally protective of human health and the environment. We believe EPA's costs are significantly underestimated. We think it is important that EPA strive for accuracy in its costs, because that accuracy is critical to evaluating cost-effectiveness across the alternatives.

With the right adjustments, EPA can issue a ROD that promotes implementation of a protective remedy in a timely, efficient manner. Each of these suggested changes is consistent with applicable law, EPA Guidance and approaches that have been implemented at other complex sediment sites. We hope you will give careful consideration to them so we can move forward to secure a cleaner, healthier river.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Anderson', written over a horizontal line.

David Anderson  
President & CEO  
NW Natural

A handwritten signature in black ink, appearing to read 'Bill Wyatt', written over a horizontal line.

Bill Wyatt  
Executive Director  
Port of Portland